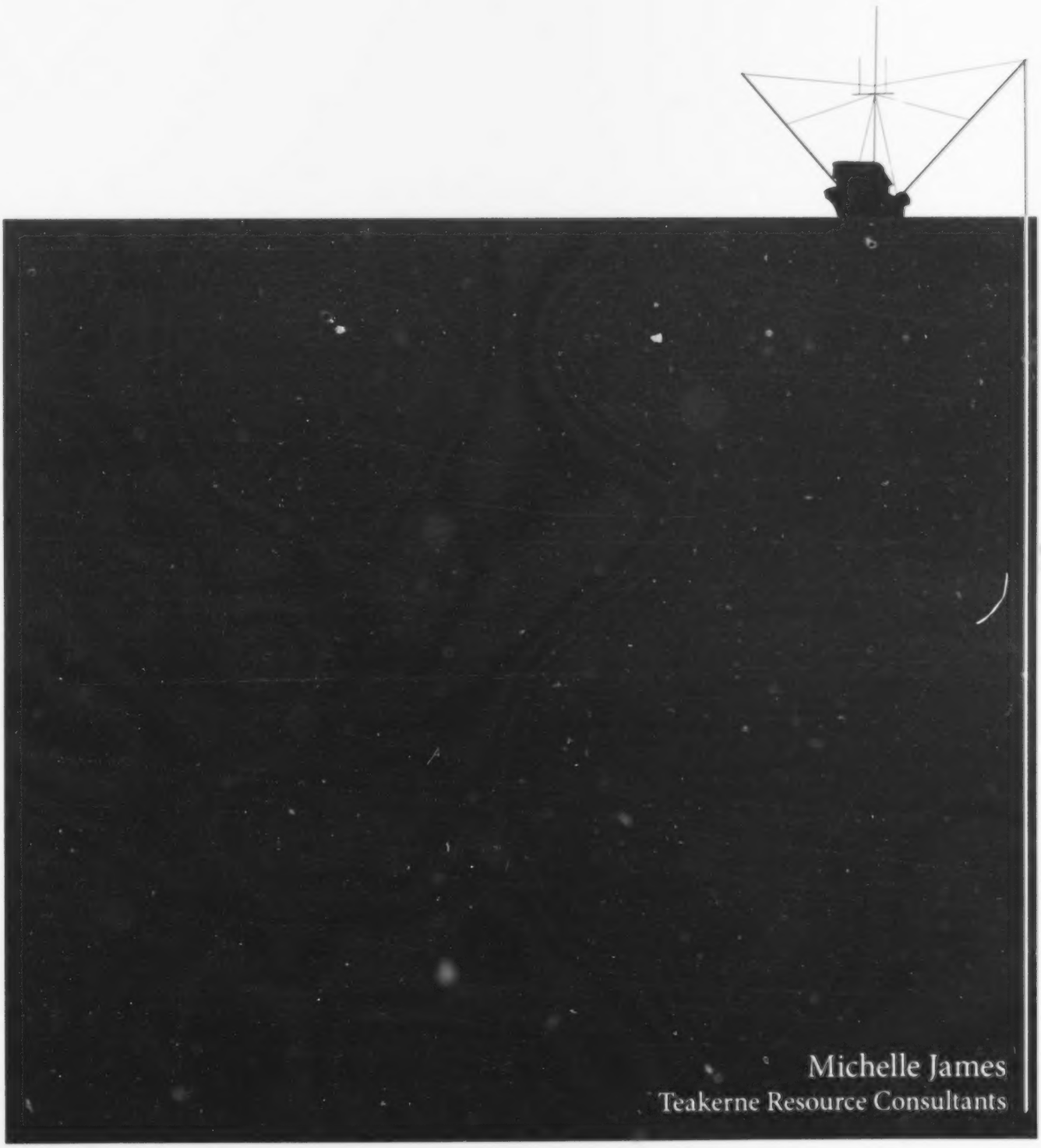
Native Participation in British Columbia Commercial Fisheries – 2003



Michelle James
Teakerne Resource Consultants

Native Participation in British Columbia Commercial Fisheries – 2003

Prepared for:
Ministry of Agriculture, Food & Fisheries

Prepared by:
Michelle James
Teakerne Resource Consultants

November 2003

EXECUTIVE SUMMARY

Native* individuals, corporations and organizations have a long history of participation in commercial fisheries in British Columbia. As of 2003 an estimated 14.2 percent of the recent average value of all commercial fisheries in BC is harvested under Native held authorities to fish. Native participation in commercial fisheries varies considerably by fishery, from zero in the green sea urchin fishery to 80 percent of the quota in the spawn-on-kelp fishery. In the salmon fishery, 30 percent of regular commercial licences are held by Natives and additional access to salmon which can be sold is provided to Native communities through ESSR's, the Nisga'a Treaty Fishery, and, up until mid-2003, Pilot Sales fisheries.

Across all regular limited entry commercial licence types, Natives hold or operate 2,007 out of 7,468 licences or 26.9 percent of all commercial licences. Of these licences, 1,761 are held in licence categories which do not allow for the licence to be transferred out of Native holdings. A total of 1,085 of the above 1,761 Native held licences are communally held by First Nations rather than Native individuals and can not
be transferred.

The Native owned or operated fleet in 2003 is 595 vessels (564 owned and 31 operated) out of a total of 2,885 vessels licensed for commercial fishing. This represents 21 percent of the commercial fleet. A rough estimate of 31 percent of all jobs in commercial fishing are held by Natives. This percentage is much higher than the percentage of value or vessel ownership largely because Native participants are concentrated in labour intensive fisheries such as salmon and intertidal clam fisheries.

* A number of words have been used for people of North American Indian descent - Native, Indian, Aboriginal, and First Nations. This report will use the word Native as it appears to have the greatest acceptance within the Native Community involved in commercial fishing.

1 INTRODUCTION

In British Columbia fish resources are allocated on a priority basis in an effort to provide access to the wide variety of competing interests. In this approach conservation is paramount; once conservation needs have been satisfied the second priority is to the Native food, social and ceremonial fishery. After these two priorities have been met, access is provided to recreational and commercial interests.

The commercial fishery in this report is defined as capture fisheries where the authority to fish includes the authority to sell fish. In most capture fisheries, commercial fishing accounts for well over 95 percent of the fish caught. Even in the salmon fishery, which has the largest component of Native food, social and ceremonial catches and recreational catches, the commercial fisheries on average account for over 90 percent of landings. The commercial industry as a whole encompasses more than harvesting – it includes science, management, aquaculture, processing, distribution, service industries, marketing and all the other activities it takes to bring fish from the ocean to the table of the consumer.

This report focuses on only one component of participation in fisheries – participation in harvesting for commercial purposes. Native individuals, corporations and organizations have had a long history of involvement in commercial fish harvesting in British Columbia. This participation can be described in a number of ways, including licence holdings, employment and estimated share of overall landed value.

The objectives of this report are:

- To provide a detailed and comprehensive account of current participation in all BC commercial fisheries by Native individuals, companies, and organizations – licence holdings, overall activity and employment.
- To provide some background on licensing policies and government programs affecting Native participation, and
- To provide base-line data for assessing the impact of potential treaty settlements on Native participants in the fishing industry.

DFO provided basic information on the number and type of licences in each commercial fishery, the contact licence holder, and other data relating to each fishery. Additional information for identifying participants has been collected and confirmed through the following sources: buyers of fish, industry associations, the Native

Brotherhood of BC, the Native Fishing Association, the Aboriginal Fishing Vessel Owners Association, and the Northern Native Fishing Corporation. In no case has an attempt been made to identify individuals as Native if those individuals would not readily self-identify as such. No attempt has been made to determine whether individuals are status or non-status Indians – although where individuals were identified as Native heritage but not status (ie. non-status children of status Indians), they were not included as Native. The basis of this report is those who readily self-identify as Natives and would be recognized as Native by commercial fishing participants in the Native community.

Sections 2 through 5 of this report summarize Native licence holdings and other measures of participation in regular commercial fisheries by type of fishery: salmon fisheries, herring fisheries, groundfish and other fin fish, and shellfish fisheries. Regular commercial fisheries are those where the licences all operate in a common management framework regardless of who holds the licence. These sections give details on both the numbers and types of Native held licences. The basic types of regular commercial licences can be described as individual or organization held and transferable; or communally held and non-transferable.

Individual or organization held licences can be issued to individual people, corporations, or Native organizations (including Native Bands and the Native Fishing Association). Individually held licences can generally be transferred, even if, as in the case of reduced fee licences, transfer is only permitted to another Status Indian. The only non-transferable individually held licences are those that are non-transferable for all participants (spawn-on-kelp and intertidal clams).

In contrast, communally held regular commercial licences (authorized under the Fisheries Act and the Aboriginal Communal Fishing Licences Regulations) are only issued to Native organizations such as Tribal Councils or Bands, and can not be transferred. These licences are designated as F licences. Most F licences exist as a result of voluntary licence eligibility retirements conducted through the DFO Allocation Transfer Program (ATP). All full fee limited entry licences are eligible for this program. Communal commercial licence eligibilities are only allocated to aboriginal organizations which have entered into multi-year Fisheries Agreements with DFO under the Aboriginal Fisheries Strategy. The First Nation organization remains the licence holder only for the term of the agreement. The agreement may contain terms and conditions that apply to the licences in addition to the regular terms and conditions of a commercial licence. All F licenses are issued to parties (ie. directly to the First Nation organization) rather than to vessels. The intent

of these F licences is to provide economic opportunities to First Nations in advance of treaty settlements. At the time of treaty settlement, the F licences can be part of the settlement package.

Northern Native Fishing Corporation (NNFC) licences and ACL's (Aboriginal Clam Licences) are also communally held and are non-transferable. All of these communally held regular commercial fishery licences, with the exception of some F spawn-on-kelp licences, are operated in common with all other regular commercial licences. Communally held non-transferable licences always have methods for the holder to assign the licence to another individual or vessel.

Regular commercial licence holdings, whether individually or communally held, only tell part of the story. In the fish harvesting business, many business deals are made which result in individuals fishing the licence other than the DFO licence holder of record. It is impossible to know the business arrangements behind licences. The actual authority to fish, or licence, however has a value of its own in limited entry commercial fisheries. Therefore, even if the licence is no longer fished by the licence holder, they may get a regular income from leasing it out. Alternatively, the licence holder may be in name only if the licence is under a sale agreement or 99 year lease.

In addition to regular commercial licences, Natives have access to salmon and intertidal clams for commercial purposes through various types of communally held fishing authorities. These include ESSR's in salmon, the Nisga'a treaty fishery, communal commercial licences for clams, and, up until August 2003, Pilot Sales fisheries. Each of these access authorities is described within the fishery in which they apply.

Overall Native participation is also estimated in terms of value of landings, vessel ownership and Native employment in commercial fishing.

2 COMMERCIAL SALMON FISHERIES

Access to salmon for the purpose of selling the catch, or commercial fishing, is authorized by DFO in a number of ways. Commercial fisheries for Native participants are authorized under various authorities including:

- regular commercial licences;
- Excess to Salmon Spawning Requirements (ESSR) licences;
- communal licences for pilot sales;
- cost recovery licences, and;
- the Nisga'a Treaty Settlement fishery.

What follows is a description of Native access to salmon for commercial purposes under each of the above access types.

2.1 *Commercial Salmon Licences*

Native fishermen hold 30 percent and operate an additional 2.2 percent of all regular commercial salmon licences in BC.

To understand the nature of Native participation in the commercial salmon licensed fishery, a description of four subcategories of licence types is required.

2.1.1 *Full Fee Regular Salmon Licences – A Licences*

These licences can be held by any Canadian individual, company or Indian Band. They are transferable to any other Canadian individual, company or Indian Band. There is a long tradition of processing company owned vessels being operated by Native crews. Today, since processing company licence holdings in salmon are exclusively in the seine sector, the practice of consistently Native operated vessels is confined to seine crews. Native operated licences are shown separately in this report. Full fee regular salmon licences have no guarantee whatsoever that they will remain in Native hands.

2.1.2 *Reduced Fee – A-1 Licences*

Reduced fee licences must be held by an individual status Indian and can only be transferred to another individual status Indian. As such these licences can not

be transferred to non-Natives. Since 1980, when this transfer restriction was put in place, the only reduction in the number of reduced fee licences occurred when the government retired approximately half of all salmon licences, including a large number of reduced fee licences, for fleet reduction purposes.

2.1.3 *Northern Native Fishing Corporation Licences*

In 1982, BC Packers Ltd sold 252 salmon vessels (most of its northern gillnet fleet) to the Northern Native Fishing Corporation (NNFC). The NNFC retains the licence privilege even though they have sold the vessels to individual Native fishermen. In order to facilitate the operation, the N licence was created as a personal licence issued only to the NNFC There are currently 254 N licences. These are made available at an annual cost to Native vessel owners. The NNFC is jointly owned and operated by the Nisga'a Lisims Government, the North Coast Tribal Council and the Gitksan-Wet'suwet'en Tribal Council.

2.1.4 *Communal Commercial Licences – F Licences*

F licences in the salmon fishery are communal commercial licences existing as a result of voluntary licence eligibility retirements conducted through the DFO Allocation Transfer Program (ATP). All full fee limited entry licences are eligible for this program. A few of these licences have not yet been issued and are held in what the DFO calls the ATP inventory.

Table 2.1 shows a complete summary of Native held licences by the four categories listed above as well as showing the number of Native operated licences. Percentage Native participation in the salmon fishery is shown in three categories.

- First, 25.5 percent of salmon licences are held by Native individuals or First Nations organizations and can not be transferred to non-Natives.
- Second, a further 4.5 percent of salmon licences are regular commercial licences that could be transferred out of Native holdings at any time.
- Third, a further 2.2 percent of salmon licences are owned by processing companies, but regularly operated by Natives.

In total, 32.2 percent of all commercial salmon licences are currently either held or operated by Natives. Test fisheries that allow for commercial sale are also carried out by a small number of the licenced commercial fleet – with both Native and non-Native participants.

Table 2.1 – Salmon Licence Summary

	Area	Communal F licences	Individual or Co. non-alienable (reduced fee)	NNFC N licences	Individual, Co. or Band held (full fee)	Total Native held licences	Native operated licences	Total licences	% Native held non-alienable	% Native held all types	% Native held or operated
Seine	A	5	8	–	18	31	21	109	11.9%	28.4%	47.7%
	B	7	10	–	32	49	28	167	10.2%	29.3%	46.1%
	ALL	12	18	–	50	80	49	276	10.9%	29.0%	46.7%
Gillnet	C	33	105	199	23	360	–	716	47.1%	50.3%	–
	D	27	30	44	7	108	–	285	35.4%	37.9%	–
	E	16	29	11	12	68	–	405	13.8%	16.8%	–
	ALL	76	164	254	42	536	–	1,406	35.1%	38.1%	–
Troll	F	6	–	–	2	8	–	152	3.9%	5.3%	–
	G	10	17	–	4	31	–	234	11.5%	13.2%	–
	H	3	7	–	1	11	–	153	6.5%	7.2%	–
	ALL	19	24	–	7	50	–	539	8.0%	9.3%	–
All Gears	ALL	**107**	**206**	**254**	**99**	**666**	**49**	**2,221**	**25.5%**	**30.0%**	**32.2%**

Commercial fishing for salmon also takes place on the Stikine and Taku rivers in northern British Columbia. These rivers are trans-boundary rivers which have their origin in BC, but flow through Alaska to reach the Pacific Ocean. There are 22 commercial licences on the Stikine River, of which 10 are communal commercial licences held by Natives from the Taltan First Nation. Of the 10 communal commercial licences, only 5 are actively fished. There are 16 commercial licences on the Taku River. Eight of these 16 licences are communal commercial licences issued under an Aboriginal Fishing Strategy agreement. Only 2 of the 8 Taku River communal commercial licences are actively fished. The Native component of the catch in the Stikine and Taku fisheries, which generate approximately $1 million in landed value annually, is relatively small.

2.2 *Excess to Salmon Spawning Requirements*

The DFO manages salmonid stocks to achieve optimum returns and make best use of the harvestable portion of the stock. Where there is a demonstrated abundance of salmon excess to spawning requirements, which can not be harvested in Aboriginal, commercial or recreational fisheries under current harvesting regimes, special arrangements are made to enable harvest. There are some exceptions to this operational guideline under the current policy – for example the regular surpluses of chum harvested at Goldstream. Under current policy, when surpluses of fish do arrive, they are offered first to First Nation's communities for Food, Social and Ceremonial (FSC) purposes. If these fish are not required for FSC purposes, they are next offered to First Nations for sale. If no First Nation is interested in the ESSR for sale purposes, the surplus would then be offered to local community groups and then to competitive tender. In practice the last two options are rarely required. First Nations with ESSR licences are generally required to use the proceeds from the sale of fish for fisheries projects (ie. enhancement, habitat restoration).

Most large hatchery facilities generate ESSR fish which can be harvested at the facility – at the rack – or at other times ESSR salmon are harvested in the approach waters to the hatchery or in terminal areas close to spawning channels. Other ESSR's, such as sockeye ESSR's in the Skeena, are based on salmon which are surplus to spawning requirements, but that were not permitted to be caught in regular commercial licensed fisheries due to concerns for weaker stocks in a mixed stock fishery. At Goldstream, where returns often exceed spawning requirements, an ESSR is authorized pre-season each year for harvest of Goldstream chums. Sale of ESSR fish is authorized through an ESSR licence issued by the DFO. These licenses are available to First Nations on a priority basis who then designate the individuals to fish those licences.

ESSR harvests of fish authorized for sale in each of the past four years are shown in Table 2.2. No fish slip (official catch and sales record) is required for salmon sold under an ESSR, so unfortunately no value information for these commercial fisheries is available. Commercial catch statistics published by the DFO do not include ESSR commercial catch. The data here are compiled from ESSR catches recorded by various fisheries managers in local areas where the fish were taken and may be missing some harvests. Table 2.2 also shows the percentage of total commercial salmon by species harvested under ESSR commercial sale authority. The percentage of commercial salmon caught under ESSR varies considerably by species and by year. For example, as much as 18 percent and as little as less than 1 percent of commercially caught sockeye have been caught in ESSR's over the past four years. Due to severe restrictions on commercial coho catch to protect wild stocks, the ESSR commercial catch of coho has been as high as 95 percent and as low as 44 percent from 1999 to 2002. As much as 32 percent of annual commercial chum catch has been harvested in ESSR's while very little commercial pink catch is recorded under an ESSR licence.

ESSR's can provide a significant economic opportunity for those First Nations who participate, however this opportunity is not consistent or predictable because ESSR's vary widely by year and location.

2.3 *Communal Licences for Pilot Sales*

From 1992 to mid-2003, pilot sales agreements were made with First Nations in the Lower Fraser River and the Somas River. Special communal commercial licences (authorized under the Fisheries Act and the Aboriginal Communal Fishing Licences Regulations) were issued to First Nations who, in turn, designated individuals to harvest under authority of that licence. The communal commercial licence set out a target percentage of Canadian TAC to be caught under authority of that licence. There were 48 commercial licences retired in 1993 representing approximately one percent of the number of commercial licences at the time to compensate for the transfer of catch.

Actual reported salmon catch in Pilot Sales fisheries by species for 1999-2002 and the percentage of total commercial catch by species represented by Pilot Sales is shown in Table 2.2.

In R. vs Kapp, the BC Provincial Court found that the pilot sales program was inconsistent with the equality provisions in the Canadian Charter of Rights and Freedoms. As a result, DFO terminated existing pilot sales agreements on the Somas River and did not enter into agreements on the Lower Fraser River.

Table 2.2 – Commercial Salmon Catches

	Sockeye	% of total	Coho	% of total	Pink	% of total	Chum	% of total	Chinook	% of total
1999										
A & N licensed	651,823	92.9%	3,871	4.6%	6,064,702	100.0%	946,334	66.3%	103,737	88.3%
Pilot Sales	30,531	4.4%	5	–	–	–	14,822	1.0%	3,694	3.1%
ESSR	18,937	2.7%	80,204	95.4%	3948	0.1%	465,427	32.6%	10,077	8.6%
Nisga'a	–	–	–	–	–	–	–	–	–	–
Total	701,290		84,080		6,068,650		1,426,583		117,508	
2000										
A & N licensed	3,408,046	79.5%	3,511	4.2%	4,431,943	99.8%	551,717	91.2%	68,367	47.4%
Pilot Sales	23,005	0.5%	6	–	–	–	8,635	1.4%	49	–
ESSR	784,404	18.3%	78,574	95.1%	5,914	0.1%	44,151	7.3%	75,846	52.6%
Nisga'a	70,729	1.7%	552	0.7%	2,606	0.1%	151	–	–	–
Total	4,286,184		82,643		4,440,463		604,654		144,262	
2001										
A & N licensed	2,533,873	87.4%	14,008	6.3%	6,125,775	95.9%	1,149,003	74.7%	95,741	71.4%
Pilot Sales	242,989	8.4%	13	–	112,142	1.8%	2	–	2,908	2.2%
ESSR	70,685	2.4%	197,669	88.3%	74,873	1.2%	388,218	25.3%	33,634	25.1%
Nisga'a Fishery	51,427	1.8%	12,068	5.4%	75,820	1.2%	–	–	1,901	1.4%
Total	2,898,974		223,758		6,388,610		1,537,223		134,184	
2002										
A & N licensed	3,596,108	92.9%	116,776	51.7%	5,309,787	99.9%	2,463,465	88.4%	234,670	89.0%
Pilot Sales	146,259	3.8%	2,252	1.0%	–	–	49,548	1.8%	11,534	4.4%
ESSR	20,000	0.5%	100,220	44.3%	1,617	–	272,514	9.8%	17,564	6.7%
Nisga'a	108,814	2.8%	6,800	3.0%	5,401	0.1%	–	–	–	–
Total	3,871,181		226,048		5,316,805		2,785,527		263,768	

As of July 29, 2003 all pilot sales fisheries were discontinued and Native participation in commercial fishing reduced accordingly. The Provincial Court decision has been appealed by the Federal Government.

2.4 *Cost Recovery Licences*

Additional commercial access to salmon has been created for cost recovery purposes at the Pallant Creek hatchery which is run by the Council of the Haida Nation. The Pallant Creek fishery is a terminal fishery for chums enhanced as a result of the hatchery. Prior to 2002, all non-ESSR commercial catch of those chums was accessed through regular commercial fishing licences. As of 2002, 35 percent of the catch is allocated to the Haida. An auction process is used to offer the access to the highest bidder. Proceeds from the successful bid are then used to offset some of the costs of running the hatchery – which was under threat of closure if some cost recovery mechanism could not be found. The 2002 catch from this cost recovery fishery was 10,000 chum. The fishing was carried out under contract by a commercial seine vessel. It appears that the catches in this fishery are recorded as part of the regular commercial fishery.

2.5 *Nisga'a Treaty Fishery*

Nisga'a treaty fisheries are based on percentages of the Canadian TAC of Nass salmon by species as outlined in the Nisga'a Final Agreement. The Nisga'a treaty fisheries started in 2000. Catches in the commercial component of the Nisga'a treaty fishery are shown by species and year in Table 2.2. 10 gillnet licences, 5 troll licences and 2 seine licences were retired from the commercial salmon fishery to account for the movement of allocation to the Nisga'a fishery.

The Nisga'a treaty fish are split by the Nisga'a into three separate components. First is fish for Food, Social and Ceremonial purposes. This fish is not authorized for sale. The other two components are the sale components of the Nisga'a fishery. One for individual participants – regulated by permit with each permit limited to a maximum of 500 fish. The other component of the commercial fishery is communally operated by the Nisga'a Fisheries. All fish for commercial purposes is currently purchased or directly harvested by Nisga'a Fisheries. The data in Table 2.2 reflect the commercial components of the Nisga'a fishery.

The Nisga'a Final Agreement also called for Canada and British Columbia to provide total funding of $11.5 million for participation in the regular licensed commercial

fisheries through the purchase of vessels and licences. Of this amount $8.5 million is set aside for participation in commercial fisheries and $3 million may be spent on other fisheries related activities. As of August 2003, the Nisga'a have not purchased any commercial licenses with the funds provided.

2.6 *Summary of Native Participation in the Commercial Salmon Fishery*

Native participation in the commercial salmon fishery is a combination of participation in regular licensed fisheries, ESSR fisheries, the Nisga'a treaty fishery, and, up until July 2003, in the Pilot Sales fisheries. The annual percentage share of commercial salmon catch that has been caught under different salmon fisheries varies considerably by salmon species as illustrated by Table 2.2.

Estimated landed values for each of the fishery components provide a mechanism for showing the percentage of the commercial industry represented by Native held authorities to fish for salmon. These are shown in Table 2.3.

In the regular commercial fishery, making the assumption that Native fishermen are on average as successful as non-Native fishermen at catching fish, which is a fair assumption according to industry sources, on average licences held by Native fishermen catch an estimated 29 percent of the landed value of coastal salmon caught. This calculation reflects a four year (1999-2002) average based on the percentage of Native held licences in each of the gear and licence areas. Over the four year period, because of variations in catch by gear and area, the Native percentage of landed value in the regular commercial fishery has ranged from 26.9 percent to 32.4 percent per year (this does not include vessels operated by Natives).

For the ESSR fishery, value information is not available. For the purpose of this analysis, the average landed value of gillnet caught salmon by species is used as a proxy for the value of ESSR catches. Other than the regular commercial fishery, the largest component of Native commercial fishing access is ESSR's. These have ranged from 2.8 percent to 16.9 percent of the value of salmon catch for 1999 to 2002 – averaging 10.5 percent of commercial landed value.

Pilot sales landed values are as reported on sales slips to the DFO. Over the period from 1999 to 2002, Pilot Sales accounted for an average 1.2 percent of the landed value in the combined commercial fisheries.

Nisga'a fishery landed values are, for the purposes of this analysis, assumed to be the

Table 2.3 – Landed Value of Salmon Catches

Value of Commercial Salmon Caught in Commercial Fisheries - Landed Value in Dollars*

	Native Commercial†	ESSR's	Pilot Sales	Nisga'a Fishery	Non-Native	Total
1999	$8,529,428	$3,617,485	$636,119	–	$17,172,230	$29,955,263
2000	$18,720,984	$11,254,210	$409,602	$710,279	$35,377,383	$66,472,458
2001	$14,669,752	$4,629,471	$431,562	$575,313	$24,973,370	$45,279,468
2002	$16,197,765	$1,664,846	$729,989	$1,054,958	$40,647,396	$60,294,953

Percentage of Value of Catch

	Native Commercial†	ESSR's	Pilot Sales	Nisga'a Fishery	Total
1999	28.5%	12.1%	2.1%	–	42.7%
2000	28.2%	16.9%	0.6%	1.1%	46.8%
2001	32.4%	10.2%	1.0%	1.3%	44.8%
2002	26.9%	2.8%	1.2%	1.8%	32.6%
Average	**29.0%**	**10.5%**	**1.2%**	**1.4%**	**41.7%**

* does not include Taku and Stikine salmon harvest values
† includes only Native held licences (not Native operated licences)

same as the average landed value for gillnet caught salmon by species. Nisga'a fishery catches have averaged 1.4 percent of the total value of commercial catch of BC salmon over the past three years.

Combining the information in Table 2.3 with the Native share of value for regular commercial fisheries, the Native held share of overall value of all components of the commercial salmon fishery has averaged approximately 41.7 percent and ranged from 32.6 percent to 46.8 percent. Since Pilot Sales are not permitted as of July 2003, taking out Pilot Sales fisheries from this calculation would result in an approximate Native share of commercial catch value reduced accordingly to an average of 41 percent.

Two conclusions stand out in this analysis. First, there are a number of ways in which salmon which can be sold are caught. Second, commercial catches in all salmon fisheries are highly variable, particularly ESSR fisheries, making the Native share of catch highly variable as well.

3 HERRING FISHERIES

3.1 *Roe Herring*

Access to roe herring for commercial purposes, including test fishing, is through regular commercial licences only. Commercial licences are further split into gillnet licences and seine licences. Under the pooled fishery management system, each active gillnet licence and each seine licence represents an equal catch share in their respective gear types. The total roe herring harvest is shared 55 percent to seine licences and 45 percent to gillnet licences.

Native licence holdings in roe herring fisheries can be divided into three types of licences in each of the gear types:

- Full fee H commercial licences held by First Nations Individuals or companies that are transferable.
- Reduced fee or H-1 licences. Reduced fee licences must be held by an individual status Indian and can only be transferred to another individual status Indian. As such these licences are non-alienable from the First Nations community.
- Communal commercial licences (FH licences) that were purchased under the ATP program and transferred to First Nations organizations with long term AFS agreements.

Table 3.1 is a summary of Native held licences in the roe herring fishery. A number of roe herring gillnet licences are rendered inactive each year as part of the original requirement for 10 of the new spawn-on-kelp licences issued to Indian Bands to retire 6 gillnet licences for each new spawn-on-kelp licence. These are taken off the total number of Native held roe herring licences and the total number of roe herring licences prior to calculating percentage native licence holdings in the roe herring gillnet fishery.

However, licence holdings, particularly in this fishery, do not relate well to actual participation. With the introduction of pool fisheries for herring, the number of Native participants in the fishery has declined as the number of participants in the fishery as a whole has been significantly reduced. At present the 252 roe herring seine licences are fished from about 100-130 seine vessels each year and the 1,258 active roe herring gillnet licences are fished from about 220-270 vessels each year. Many roe

herring licences are leased, and while the licence may provide some ongoing income through lease arrangements, the licence holder is not the person doing the fishing. In addition, a number of reduced fee roe herring licences are held by Natives in name only, with beneficial ownership actually in the hands of others through purchase arrangements or 99 year leases.

Natives currently officially hold 27.4 percent of the roe herring gillnet licences and 25 percent of the roe herring seine licences.

3.2 *Spawn-on-Kelp*

Collection of herring spawn on a variety of kelps and boughs is a traditional Native fishery. Consequently the DFO policy has been to give Native individuals and Bands preference in commercial licence issuance. Native participation in the spawn-on-kelp fishery can be divided into three categories:

- Band held licences
- Licences held by Native individuals
- Communal commercial licences (F licences) – two of which were purchased under the AFS ATP program and 7 of which were created for the Heiltsuk through an AFS agreement. The Heiltsuk had two regular J licences of their own which were later given F designation.

All commercial licences in the spawn-on-kelp fishery are non-transferable.

Table 3.1 shows the number of Native Band held licences, the number of individual Native held licences and the number of communal commercial licences – 2 of which are F licences which were purchased from the existing pool of limited entry licences and transferred under the DFO ATP program.

The current annual production of spawn on kelp is 8 tons or 16,000 lbs per licence. The exception being the nine F licences that through the Heiltsuk fishery/harvest agreement had a 2003 annual quota of 240,000 lbs for the 9 licences combined. This is a quota of 26,667 lbs per licence, is negotiated annually, and contains a restriction for open ponding only. The increase in production was made possible by changing 3 closed pond licences into open pond licences. Thus the percentage Native participation in this fishery is 78.3 percent when measured by the number of licences, and 80.8 percent when measured as a share of the catch.

Table 3.1 – Native Licence Holdings in Commercial Herring Fisheries

Roe Herring

	Full-fee	Reduced Fee	Communal Commercial	Total Native Held Licences	Native Inactive for Spawn-on-Kelp	Total Active Native Held	Total Active Licences	% Native Held Active Licences
Gillnet	2	325	27	354	9	345	1,256	27.5%
Seine	11	51	1	63	–	63	252	25.0%
Both Gears	**13**	**376**	**28**	**417**	**9**	**408**	**1,508**	**27.1%**

Spawn-on-Kelp

Band Held	Individual Native Held	Communal Commercial F Licences	Total Native Held Licences	Total Licences	% Native Held Licences	% Native Quota Holding
15	10	11	36	46	78.3%	80.8%

4 GROUNDFISH AND OTHER FIN FISH

Native licence holdings in groundfish and other fin fish fisheries varies widely, from 3.5 percent in the groundfish trawl fishery to over 50 percent in the newly developing sardine by seine fishery. For all established groundfish fisheries, commercial access is only authorized under limited entry licences. These limited entry licences can be divided into two types:

- Regular transferable commercial licences that are held by First Nations Individuals or companies.
- Communal commercial licences (F licences) are licences that were either purchased under the ATP program and transferred to First Nations or, in the case of the Sardine by seine fishery, new F licences issued to First Nations organizations as part of the licensing program for new and developing fisheries. All F licences are issued to parties (ie. directly to First Nation organizations), rather than to vessels.

Table 4.1 is a summary of Native licence holdings in commercially licensed groundfish and other fin fish fisheries.

Native licence holdings in groundfish fisheries range from 3.5 percent of licences in the groundfish trawl fishery to 12.2 percent of licences in the halibut fishery. However, licence holdings do not represent participation. The halibut, sablefish and groundfish trawl fisheries are all managed by individual quota, and a better estimate of participation would be quota holdings. In groundfish trawl, 4 of the 5 Native held licences are designated to the Option A fishery which is managed through individual quotas. None of these licences have any quota associated with them – they are called empty T licences and allow the holder to purchase quota – but without quota, do not fish. In the halibut fishery, the 12.2 percent of licences represents 9.4 percent of the quota. In the sablefish fishery the small number of participants precludes publication of the share of catch represented by those licences.

The sardine by seine fishery is a new fishery, developed under the DFO policy for new and developing fisheries. This policy requires that, for each new limited entry commercial licence, consideration be given to the issuance of additional Communal Commercial F licences. In the sardine by seine fishery, 4 of the 25 regular commercial

Table 4.1 – Native Participation in Groundfish & Other Finfish Commercial Fisheries

	Communal Non-transferable Licences	Aboriginal Individual or Co. Transferable Licences	Total Native Held Licences	Total Licences	% Native Non-transferable	% Native All Types
Halibut	26	27	53	435	6.0%	12.2%
Sablefish	1	1	2	48	2.1%	4.2%
Groundfish Trawl	–	5	5	142	–	3.5%
Rockfish by Hook and Line	14	5	19	262	5.3%	7.3%
Sardine by Seine	25	4	29	50	50.0%	58.0%
Eulachon	–	2	2	16	12.5%	12.5%
C Category Licence	8	12	20	541	1.5%	3.7%

licences are held by Natives. An additional 25 communal commercial licences have been issued for sardines.

The C licence category, along with all other vessel based licence categories, allows for the harvest of Schedule II species (lingcod, skate, spiny dog fish, sole, and flounder by hook and line, tuna by all gears, sturgeon by troll and smelt by gillnet). The primary value in having a C licence is that personal licences (such as roe herring, sea urchin, and sea cucumber) must be designated to a licenced commercial fishing vessel. A C licenced vessel can be used for these personal licences. 3.7 percent of C licenced vessels are owned by Natives.

5 SHELLFISH

5.1 *Vessel Based Commercial Shellfish Fisheries*

Native licence holdings in shellfish fisheries varies widely, from zero in the green urchin fishery to over 50 percent in the intertidal clam fishery. For all vessel based shellfish fisheries, commercial access is only authorized under limited entry licences. These limited entry licences can be divided into three types:

- Regular commercial licences that are held by First Nations Individuals or companies that are transferable.
- Band held licences in the red urchin and sea cucumber fisheries that are fully transferable. These licences were initially issued to Bands as part of the limited entry program in these fisheries. Entry criteria were relaxed for Bands which could show some interest or dive training investment in these fisheries. Some of the initial licences issued under these criteria have since been transferred to individuals.
- Communal commercial licences (F licences) that were purchased under the ATP program and temporarily issued to First Nations organizations with long term AFS agreements.

Table 5.1 is a summary of Native licence holdings in commercially licenced shellfish fisheries. Licence holdings do not necessarily translate into Native participation in these fisheries. Many licences, particularly in the dive fisheries, are leased out. This allows dive operations to consolidate and improve efficiency. Native licence holders will gain some income from leasing out licences, but not necessarily employment.

5.2 *Intertidal Clam Fisheries*

As part of Clam Management Reform, the DFO negotiated the issuance of a number of Aboriginal Commercial Licences (ACL's) for clams to achieve approximately 50 percent participation in the fishery. These licences are issued to specific bands and allow participation in the commercial fishery at the discretion of the chief and council of the specified band. The licences have the same capacity as commercial clam licences, except that the chief and council designate a band member to the licence annually. Currently, out of a total of 1146 licences, 564 are ACL's. This represents just over 49 percent of the licences in the fishery. The remaining 582

Table 5.1 – Native Participation in Commercial Shellfish Fisheries – 2003

Commercial Shellfish Licences	Communal Non-transferable Licences	Band Held Transferable Licences	Aboriginal Individual or Co. Transferable Licences	Total Native Held Licences	Total Licences	% Native Non-transferable	% Native All Types
Crab	9	–	2	11	222	4.1%	5.0%
Prawn	5	–	4	9	252	2.0%	3.6%
Geoduck and Horse Clam	–	–	1	1	55	–	1.8%
Red Urchin	6	7	1	14	110	5.5%	12.7%
Green Urchin	–	–	–	–	49	–	–
Sea Cucumber	–	5	5	10	85	–	11.8%
Shrimp Trawl	11	–	4	15	246	4.5%	6.1%
Krill by Trawl	1	–	1	2	19	5.3%	10.5%

Intertidal Clam Fisheries

	Communal Non-transferable	Aboriginal Non-transferable	Total Native Held Licences	Total Licences	% Nativ Communal	% Native All Types
Clam by Hand	564	84	648	1,146	49.2%	56.5%
Heiltsuk Clam	50	–	–	50	100%	100%
* Haida Razor Clam	94-269	–	–	94-269	100%	100%

* unlimited number of designated harvesters under the Haida Communal Clam Licence

Depuration fisheries

	First Nations & Joint Venture	Total Licences	% Native
Depuration fisheries on Crown Land	8	12	66.7%
Depuration fisheries on Leases	2	7	28.6%
Oyster Relay	2	4	50.0%
† Total Harvesters Listed	338	480	70.4%

† unlimited number of designated harvesters under depuration fishery licences, harvesters operating on crown foreshore require a valid FRC. Natives harvesting on land fronting reserves under these licences are exempted from the FRC requirement.

limited entry licences are non-transferable and, as individuals retire from digging clams, that number will go down unless transferability of regular limited entry licences is permitted in future. At present, however, there are 84 regular intertidal clam licences out of the remaining 582 commercial clam licences that are held by Natives who self-identified as Native by using their Status Cards as identification in applying for those licences. The total Native participation in the regular licensed commercial fishery for intertidal clams is 56.5 percent of all licences.

In addition to the regular commercially licensed fishery, opportunity for specific First Nations to harvest commercially and co-manage beaches was initiated in the form of pilot projects on open beaches fronting existing reserves and joint ventures for depuration on contaminated beaches that are fronting or immediately adjacent to IR's. Under these pilot projects the First Nation must survey stocks to estimate a total allowable catch and implement a management plan that is mutually agreeable to both the Band and the Department.

The Heiltsuk commercial intertidal clam fishery for manila and littleneck clams is an established clam fishery with total allowable harvests set by DFO. A communal commercial licence is issued to the Heiltsuk Tribal Council which then designates up to 50 individuals to fish under authority of that licence.

The joint DFO/Haida management plan for commercial razor clam is licenced under a combination of either a limited entry clam licence for the area or under the authority of a communal commercial licence issued to the Council of the Haida Nation (CHN). The CHN designate individuals to harvest razor clams under authority of their communal commercial licence. The number to be designated is not limited and has ranged from 94 to 269 people annually since the agreement was put in place.

Out of a total of 19 depuration licences authorizing commercial harvest of intertidal clams, there are 10 which are joint ventures between First Nations and commercial depuration facilities. There are 338 Native individuals named as participants under these 10 joint ventures. Of the 4 oyster relay permits, two are held by First Nations.

6 ESTIMATED TOTAL VALUE OF COMMERCIAL FISHERIES AUTHORIZED UNDER NATIVE HELD AND OPERATED LICENCES

Native held licences to fish are unevenly distributed amongst the various commercial fisheries. In order to get some overall sense of the scope of Native participation in commercial fisheries, one method is to estimate the average percentage of value overall in capture commercial fisheries that is represented by Native held authorities to fish. This requires a number of assumptions:

Overall value for each fishery is taken as a 4 year average from 1999 to 2002. This is to smooth out annual variations in catch and prices

Native held authorities to fish are as of August 2003. Pilot sales are excluded from this analysis.

Percentage of value of catch in each fishery is based on the percentage of licences held in that fishery with the following exceptions:
Percentage value in the salmon fishery is based on a combination of licence holding percentage multiplied by overall value by gear and area for the regular commercial fishery, and estimated value for ESSR's and the Nisga'a fishery, all averaged over the four year period.

Percentage of quota is used to calculate percentage of value for the halibut, groundfish trawl and spawn-on-kelp fisheries.

Native percentage of value for small fisheries such as krill, herring food and bait, eulachon, and sardine by seine, are assumed to be zero in the analysis since the values are combined in an other category.

Tuna, which is not a limited entry fishery, is assumed to have no native participation.

Percentage of value in the intertidal clam fishery is assumed to be 60 percent, a conservative estimate based on the combination of clam fisheries.

The four year average landed value by fishery in BC and the four year average estimated value of the Native component of each fishery are shown in Table 6.1.

Table 6.1 – Estimated Native Proportion of the Total Value of Commercial Fisheries in BC

	Landed Value ($ millions) Avg 1999-2002*	Estimated Native Value ($ millions)
†Salmon	$49.9	$20.5
Roe Herring	$37.6	$10.2
Spawn-on-Kelp	$9.5	$7.7
Halibut	$41.6	$3.9
Sablefish	$27.9	$1.2
Groundfish Trawl	$60.1	–
Groundfish Hook & Line	$5.0	$0.4
Crab	$26.7	$1.3
Prawn	$25.9	$0.9
Geoduck and Horse Clam	$39.4	$0.7
Red Urchin	$8.3	$1.1
Green Urchin	$0.8	–
Sea Cucumber	$1.7	$0.2
Shrimp Trawl	$4.4	$0.3
Intertidal Clam	$5.6	$3.4
Other Shellfish	$0.5	–
Other - incl. herring food and bait	$1.3	–
Tuna	$17.5	–
Total Wild Fishery Landed Value Average	**$363.7**	**$51.6**
Estimated percentage of overall landed value represented by Native held and operated authorities to fish	–	**14.2%**

* Source – BC Seafood Year in Review (except salmon)
† does not include the value of Pilot Sales

An estimated 14.2 percent of the average value of all commercial fisheries combined is harvested under authority of Native held licences (including regular commercial licences, ESSR's, communal licences, and the Nisga'a fishery) as of August 2003.

7

NATIVE EMPLOYMENT IN COMMERCIAL FISHING

In regular commercially licenced fisheries there are currently 8,142 registered commercial fishermen. This is less than half than the number of registered commercial fishermen ten years ago. Employment in commercial fisheries authorized under Pilot Sales, ESSR's, the CHN clam fishery, the Heiltsulk clam fishery are not included in the number of registered commercial fishermen because individuals participating in these fisheries are authorized to participate by the First Nation organization holding the licence, not the DFO.

Out of the 8,142 registered commercial fishermen, about 1,146 are employed in the intertidal clam fishery. Those employed in intertidal clam fisheries, with rare exceptions, are not involved in vessel based fisheries. This leaves around 6,996 commercial fishermen who run a total of 2,885 licenced vessels involved in commercial fishing on the BC coast.

Taking into account all the multiple licenced vessels, the Native owned and operated fleet in BC is 595 vessels in 2003 (564 owned and 31 operated) or 21 percent of the commercial fleet. It does not include the 89 communal commercial F licences that have not been designated to a vessel this year and may eventually be designated to either existing licenced vessels or a new licenced vessel. According to industry sources, it is fair to assume that Native owned and operated vessels generally have Native crew, and those that don't are made up for by the non-Native owned vessels that have Native crew. Assuming that the average crew size for Native and non-Native vessels is the same (average 2.4 crew per vessel), 20.6 percent of commercial vessel based fishing employment is Native. This converts to an estimated 1,442 Native fishermen out of the total 6,996 vessel based commercial fishermen. Add to this the 56 percent of intertidal clam harvesters that are Native, and the total employment of Natives in the regular commercial fisheries is estimated at 2,084 individuals or 26 percent of total employment. This employment is concentrated in the salmon, roe herring and intertidal clam fisheries. This analysis assumes that personal licences (such as herring, sea urchin, sea cucumber, and rockfish by hook and line) only result in Native employment if they are designated to a Native owned or operated vessel. Particularly in the roe herring and dive fisheries, and for many of the F licences, Native held licences are leased out to non-Native vessel owners, providing income, but no employment.

In addition to employment in the regular commercial fishery, which requires obtaining a Fisher Registration Card, Natives are employed in a number of additional commercial fisheries. The Heiltsuk employ 50 band members in the intertidal clam fishery and the Council of Haida Nations authorizes anywhere from 94 to 269 band members to harvest razor clams. The Nisga'a fishery employs approximately 200 members to harvest the Nisga'a allocation. While employment estimates are not available, ESSR fisheries can employ significant numbers of people, particularly in the labour intensive beach seine fishery that has taken place in the Skeena River below the confluence of the Babine and Skeena Rivers. Up until July 2003, Native employment included a number of Native held vessels that are not also commercial licenced vessels, involved in Pilot Sales fisheries in the lower Fraser River and the Somas River. Even without the continuation of Pilot Sales fisheries, all these additional employment opportunities can add up to at least an additional 600 jobs in commercial fishing.

Adding this conservative estimate of 600 fishing jobs that do not require a Fishers Registration Card, to the estimate of Native employment in the regular commercial fishery, results in a total estimate of Native employment in commercial fishing of 2,684 jobs out of 8,742 fishing jobs. This represents a rough estimate 31 percent of total employment in commercial fishing. This percentage is considerably higher than the percentage of value represented by Native owned or operated licences, largely because Native participation is concentrated in labour intensive fisheries such as salmon fisheries and the intertidal clam fishery.

To put this employment number and percentage into perspective, as of December 31, 2001, there were 112,305 registered Status Indians in British Columbia. According to the 2001 Census, the number of people identifying themselves as Aboriginal (North American Indian, Metis, or Inuit) in BC was 170,025 or 4.4 percent of the province's overall population. Despite large declines in overall employment in commercial fishing over the past 10 years, commercial fishing remains an important source of employment for Native people in British Columbia, particularly in coastal First Nations.

8 CONCLUSIONS

In order to understand the impact of government policies on economic opportunities and activities in commercial fishing for British Columbia's First Nations, it is important to have base-line data on the current level of participation.

This is the first publicly available report on Native participation in commercial fisheries that covers all aspects and species harvested for commercial purposes in British Columbia. It contains a snap shot of Native participation at a particular point in time – August 2003. In future, it would be valuable to regularly update this information to provide ongoing measurement of this important indicator of economic opportunities for Natives in the fish harvesting part of the seafood industry.

In addition, the report is limited in many respects by available data. A particular concern is the lack of information about ESSR catches and catch values. ESSR fish is sold commercially, however it is not included in the commercial catch statistics for the Province of BC, even though the catches can be a substantial part of the salmon fishery. Data could also be improved for identification of Natives. Consideration should be given to allowing Natives and Native held corporations to self-identify as Native when applying for DFO licences – both species licences and Fishers Registration Cards. At the same time, assessing true beneficial ownership of licences will remain difficult since it is impossible for the government to know all the business deals behind the licence. Despite good intentions of maintaining Native participation in the roe herring and salmon fisheries with reduced fee licences – government's ability to make sure the ongoing benefits of those licences remain in the Native community is limited.

Commercial fisheries management includes a complex web of licensing and management regimes. Understanding Native participation in all aspects of commercial fishing is important to assessing the impact of both government policies and potential treaty settlements on Native participants in the fishing industry.

REFERENCES

Canada, British Columbia, Nisga'a Nation. 1998. Nisga'a Final Agreement.

DFO 1990. Pacific Coast Commercial Licensing Policy: Discussion Paper.

DFO 2003. Integrated Fishery Management Plans.
Website: www.pac.dfo-mpo.gc.ca

DFO 2003. Commercial Licensing Statistics.
Website: www.pac.dfo-mpo.gc.ca

James, M.D. 1984. Historic and Present Native Participation in Pacific Coast Commercial Fisheries. Canadian Manuscript Report of Fisheries and Aquatic Sciences No. 1786.

Mylchreest, Russell. 1993. Salmon Licence Retirement, Review of the 1993 Pilot Program.

Nisga'a Lisims Government. 2003. Nisga'a Final Agreement 2001/2002 Annual Report
Website: www.nisgaalisims.ca

APPENDIX 1

List of organizations contacted:

Aboriginal Fishing Vessel Owners Association
Area D Gillnet Association
Area E Gillnet Association
Canadian Fishing Company
Canadian Sablefish Association
Deep Sea Trawlers Association
DFO – Aboriginal Fisheries Division
DFO – North Coast Fisheries Management
DFO – South Coast Fisheries Management
DFO – Fraser River Fisheries Management
DFO – Yukon and Trans-boundary Fisheries Management
DFO – Licensing Office
DFO – Science Branch, Statistics Division
Native Brotherhood of BC
Native Fishing Association
Nisga'a Lisims Government
Northern Native Fishing Corporation
Ocean Fisheries
Pacific Green Urchin Harvesters Association
Pacific Halibut Management Association
Pacific Prawn Fishermen's Association
Pacific Sardine and Mackerel Harvesters Association
Pacific Sea Cucumber Harvesters Association
Pacific Urchin Harvesters Association
Spawn on Kelp Operators Association
Underwater Harvesters Association